

SENATE BILL 426

By Yager

AN ACT to amend Tennessee Code Annotated, Title 57,  
Chapter 6 and Title 57, Chapter 5, relative to beer.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 57-5-101, is amended by deleting subsection (a) in its entirety and substituting instead the following:

(a)

(1) It is lawful in this state to transport, store, sell, distribute, possess, receive, or manufacture beer, as defined in subsection (b), subject to the privilege taxes and regulations set out and provided for in this part.

(2) Except as otherwise provided for in this part, no brewer or manufacturer of beer shall have any financial or ownership interest, direct or indirect, in the business of or a building containing a wholesale or retail licensee, including any gift or loan of any fixtures of any kind, and no such brewer or manufacturer shall hold a wholesale or retail license. For purposes of this section, an indirect interest includes any interest acquired by affiliates, subsidiaries, corporate officials, partners, or employees of the brewer or manufacturer.

(3) Except as otherwise provided for in this part, no wholesaler shall hold any financial or ownership interest, direct or indirect, in the business of or a building containing a brewer, manufacturer, or retail licensee, including any gift or loan of any fixtures of any kind, and no such wholesaler shall hold a manufacturer or retail license.

SECTION 2. Tennessee Code Annotated, Section 57-5-101, is further amended by adding the following as new subsections:

(d) Notwithstanding the prohibitions and restrictions on a manufacturer's interests imposed in subsection (a), a manufacturer may have a financial interest in a licensed wholesaler's business; provided, however, that a manufacturer may have such financial interest for a period not to exceed five (5) years and only in the following circumstances:

(1) When a licensed wholesaler is voluntarily selling its distribution rights, and the manufacturer whose brand distribution rights are being transferred seeks to assist the transfer by taking a financial interest in the purchasing wholesaler;

(2) When a licensed wholesaler with distribution rights for one (1) or more of the manufacturer's brands in a designated sales territory is unable to service the designated sales territory for reasons that are not the result of an action by the manufacturer, in which event a manufacturer is authorized to appoint and take a financial interest in a temporary licensed wholesaler to service the manufacturer's brands in the designated sales territory; or

(3) When, only for reasons permitted under § 57-5-505, § 57-5-506, or § 57-5-507, a distribution agreement between a manufacturer and a wholesaler is not renewed or is otherwise terminated, cancelled, or discontinued, in which event a manufacturer is authorized to appoint and take a financial interest in a temporary licensed wholesaler to service the manufacturer's brands in the designated sales territory.

(e)

(1) Notwithstanding this section to the contrary, a wholesaler that has continuously held a valid wholesale distribution permit, issued pursuant to this section for a period of at least six (6) months prior to the effective date of this act, and has held a direct or indirect interest in a brewer or manufacturer,

continuously during that period of time, and holds a trademark or marketing rights to a brand or brands of beer, may continue to hold the interest, and may expand the interest to effect the brewing, bottling, and sales of beer in which the wholesaler holds the trademark or marketing rights.

(2) It is the intent of the general assembly that this act be prospective only and not be applicable to compel the divestiture of trademark or marketing rights or a direct or indirect interest held by a wholesaler for the six-month period prior to the effective date of this act.

(f) For purposes of this section, “manufacturer” means:

- (1) A holder of a license to manufacture or import beer;
- (2) An officer, director, agent, or employee of such a license holder; or
- (3) An affiliate of such a license holder, regardless of whether the affiliation is corporate or by management, direction, or control.

SECTION 3. Tennessee Code Annotated, Section 57-5-201, is amended by deleting subsection (c) in its entirety and substituting instead the following:

(c) No retail dealer of beer, as defined in § 57-5-101(b), shall purchase beer from anyone other than a licensed wholesaler located in this state, and all such purchases shall be delivered by the wholesaler to the retailer’s licensed premises only or directly to the retailer at the wholesaler’s licensed premises. No wholesale distributor of beer shall purchase beer from anyone other than a licensed manufacturer, importer, or other wholesaler holding a permit issued pursuant to § 57-5-101, and all such purchases shall be delivered only at a warehouse facility owned or operated by the wholesaler and located within this state. Anyone importing or causing to be imported any beer, as defined in § 57-5-101(b), shall be liable as other wholesale distributors or dealers hereunder.

SECTION 4. Tennessee Code Annotated, Section 57-5-502, is amended by deleting subdivision (11) in its entirety and replacing it with the following:

(11) "Wholesaler" means a person or entity that is licensed to sell beer to retailers, but does not include any manufacturer authorized to sell directly to retailers pursuant to § 57-5-101.

SECTION 5. Tennessee Code Annotated, Section 57-6-102, is amended by deleting subdivision (11) in its entirety and replacing it with the following:

(11) "Wholesaler" means a person or entity that is licensed to sell beer to retailers, including any manufacturer authorized to sell directly to retailers pursuant to § 57-5-101.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.